

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Illinois Controlled Substances Act is  
5 amended by changing Section 216 as follows:

6 (720 ILCS 570/216)

7 Sec. 216. Ephedrine.

8 (a) The following drug products containing ephedrine,  
9 its salts, optical isomers and salts of optical isomers shall  
10 be exempt from the application of Sections 312 and 313 of  
11 this Act if they: (i) may lawfully be sold over-the-counter  
12 without a prescription under the Federal Food, Drug, and  
13 Cosmetic Act; (ii) are labeled and marketed in a manner  
14 consistent with Section 341.76 of Title 21 of the Code of  
15 Federal Regulations; (iii) are manufactured and distributed  
16 for legitimate medicinal use in a manner that reduces or  
17 eliminates the likelihood of abuse; and (iv) are not  
18 marketed, advertised, or labeled for the indications of  
19 stimulation, mental alertness, weight loss, muscle  
20 enhancement, appetite control, or energy and; (v) are sold in  
21 compliance with subsection (b-5) of this Section:

22 (1) Solid oral dosage forms, including soft gelatin  
23 caplets, which are formulated pursuant to 21 CFR 341 or  
24 its successor, and packaged in blister packs of not more  
25 than 2 tablets per blister.

26 (2) Anorectal preparations containing not more than  
27 5% ephedrine.

28 (b) The marketing, advertising, or labeling of any  
29 product containing ephedrine, a salt of ephedrine, an optical  
30 isomer of ephedrine, or a salt of an optical isomer of  
31 ephedrine, for the indications of stimulation, mental

1 alertness, weight loss, appetite control, or energy, is  
2 prohibited. In determining compliance with this requirement  
3 the Department may consider the following factors:

4 (1) The packaging of the drug product;

5 (2) The name and labeling of the product;

6 (3) The manner of distribution, advertising, and  
7 promotion of the product;

8 (4) Verbal representations made concerning the  
9 product;

10 (5) The duration, scope, and significance of abuse  
11 or misuse of the particular product.

12 (b-5) Over-the-counter sales.

13 (1) No person shall deliver in any single  
14 over-the-counter sale more than 3 packages of any  
15 methamphetamine precursor drug or any combination of  
16 methamphetamine precursor drugs.

17 (2) Paragraph (1) of this subsection (b-5) does not  
18 apply to a product labeled under federal regulation for  
19 use only for children under 12 years of age, or to a  
20 product that the Department, upon application of a  
21 manufacturer, exempts by rule from paragraph (1) of this  
22 subsection (b-5) because the product has been formulated  
23 in such a way as to effectively prevent the conversion of  
24 the active ingredient into methamphetamine, or its salts  
25 or precursors.

26 (3) A person who is considered the general owner or  
27 operator of the outlet where ephedrine, pseudoephedrine,  
28 or phenylpropanolamine products are available for sale  
29 who violates paragraph (1) of this subsection (b-5) may  
30 not be penalized under this subsection (b-5) if the  
31 person documents that an employee training program was in  
32 place to provide the employee with information on the  
33 State and federal regulations regarding ephedrine,  
34 pseudoephedrine, or phenylpropanolamine.

1           (4) Any person who knowingly or recklessly violates  
2           this subsection (b-5) is guilty of a Class A misdemeanor.  
3           A second or subsequent violation of this subsection (b-5)  
4           is a Class 4 felony.

5           (c) A violation of this Section is a Class A  
6 misdemeanor. A second or subsequent violation of this  
7 Section is a Class 4 felony.

8           (d) This Section does not apply to dietary supplements,  
9 herbs, or other natural products, including concentrates or  
10 extracts, which:

- 11           (1) are not otherwise prohibited by law; and  
12           (2) may contain naturally occurring ephedrine,  
13 ephedrine alkaloids, or pseudoephedrine, or their salts,  
14 isomers, or salts of isomers, or a combination of these  
15 substances, that:

16           (i) are contained in a matrix of organic  
17 material; and

18           (ii) do not exceed 15% of the total weight of  
19 the natural product.

20 (Source: P.A. 90-775, eff. 1-1-99.)